

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE
PLANNED UNIT DEVELOPMENT REPORT #FPPUD-16-01
MONTANA RACEWAY
APRIL 21, 2017**

A report to the Flathead County Planning Board and Board of Commissioners regarding a request for an R-1 Residential Planned Unit Development (PUD) overlay on 40.6 acres of land. Located between Kalispell and Whitefish, the proposed PUD is on the west side of Highway 93 directly west of the Majestic Valley Arena, within the Highway 93 North Zoning District.

The Riverdale Land Use Advisory Committee held a public hearing on the proposed Planned Unit Development on December 19, 2016 and made no recommendation to the Flathead County Planning Board, instead choosing to voice concerns. The Flathead County Planning Board will conduct a public hearing on the proposed PUD on January 11, 2017 beginning at 6:00 PM in the 2nd Floor Conference Room of the Earl Bennett Building at 40 11th Street West, Kalispell. A recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration. In accordance with Montana law, the Board of Commissioners will also hold a public hearing on the proposed PUD at a time yet to be determined. All documents pertaining to the PUD are available for public inspection at the Flathead County Planning and Zoning Office in the South Campus Building located at 40 11th Street West, in Kalispell.

UPDATE: This staff report went to the January 11th, 2017 Planning Board meeting and it was determined that additional information and analysis was needed before a decision could be made. This staff report has been updated with new information in places labeled 'UPDATE'.

I. APPLICATION REVIEW UPDATES

A. Land Use Advisory Committee

The Riverdale Land Use Advisory Committee met at 6:30 pm on December 19, 2016 in the lobby of Majestic Valley Arena to review the proposed PUD and associated subdivision. Board members present included Lacy Galpin, Hank Galpin, and Scot Hedstrom.

Staff presented the report, summarizing agency comments and concerns as well as planning office concerns. The board discussed at length, concerns regarding lack of a secondary access, density, storm water runoff, perimeter fencing, proximity to landfill, and Montana's right to farm statutes.

Hank Galpin made a motion to recommend approval of the PUD request and associated subdivision, seconded by Scot Hedstrom. The motion failed 2-1. Hank Galpin made another motion to recommend neither approval nor denial of the PUD request and associated subdivision because of concerns listed below. Scot Hedstrom seconded the motion. The motion passed 3-0.

Riverdale Land Use Advisory concerns:

1. Lack of secondary access (or second primary access)
2. Density
3. Stormwater infiltration/runoff

4. Necessity of adequate perimeter fencing to protect Majestic Valley Arena from liability due to accidents involving people and livestock, and to protect neighboring properties
5. Proximity to the landfill, particularly regarding water quality
6. Right to Farm

B. Planning Board

This space is reserved for an update of the January 11, 2017 Flathead County Planning Board public hearing.

UPDATE JANUARY 12, 2017:

The Planning Board met on January 11, 2017 to hold a public hearing regarding the proposed planned unit development. At the public hearing, staff gave a brief presentation of the proposal including the proposed conditions and findings. The applicant's technical representative gave a presentation and three members of the public spoke regarding the proposal, with one person in support of the proposal and two against the proposal. The Planning Board discussed issues relating to the project including parkland requirements, and stormwater runoff, septic, and access. The Planning Board adopted the Finding of Facts and then had discussion regarding design, access, lack of community facilities including trail. During the discussion, the applicant stated he would like to table the application. The Planning Board then unanimously voted to table the application to a date uncertain.

C. Commission

The Flathead County Board of Commissioners will hold a public hearing on the proposed Planned Unit Development on a date to be determined. This space will contain an update regarding the Flathead County Commissioners review of the proposal.

II. GENERAL INFORMATION

A. Application Personnel

i. Owner

Thornton Motorsports LLC
PO Box 280
Whitefish, MT 59937

ii. Applicant/Technical Assistance

APEC Engineering
75 Somers Road
Somers, MT 59932

B. Project Description:

The proposed R-1 Residential Planned Unit Development (PUD) overlay would apply to the entire 40.6 acre subject property, and is proposed in anticipation of Montana Raceway Subdivision which would be a 57 lot major subdivision. The PUD is requested specifically to allow the development to deviate from the minimum lots size requirements of the R-1 *Suburban Residential* zoning designation. The proposed PUD is currently under the AG-40 *Agriculture* zoning designation. The proposed development density would be 1 dwelling unit per .50 acres, and all lots are proposed to be served by individual septic systems with a common drain field and the two large wells that will serve the entire subdivision. The

submitted PUD Plan outlines the deviations of the bulk and dimensional requirements from a traditional R-1, *Suburban Residential* zoning which will be addressed in greater detail in Section IV (A) of this report.

C. Legal Description:

The property can legally be described as Tract 4 in Section 12 in Township 29N, Range 22 W, P.M.M., Flathead County, Montana. The total acreage involved in the request is approximately 40.6 acres (see Figure 1 below).

Figure 1: Location (Property and PUD site shown yellow)



D. Detailed Location

Located at 3790 Highway 93 North, the proposed PUD is situated between the cities of Kalispell and Whitefish, on the west side of Highway 93 (see Figure 1 above). The proposed PUD and subdivision is approximately .5 miles north of the Kalispell city limits.

E. Administrative Characteristics

i. Current Land Use

The subject property is currently developed as Montana Raceway, a racetrack hosting events seasonally from May to October and generally limited to weekend evenings. The track is a 1/4 mile inside and 3/8 mile outside. Montana Raceway has the capacity for approximately 3,000 spectators, multiple outbuildings for full concessions, and a RV park.

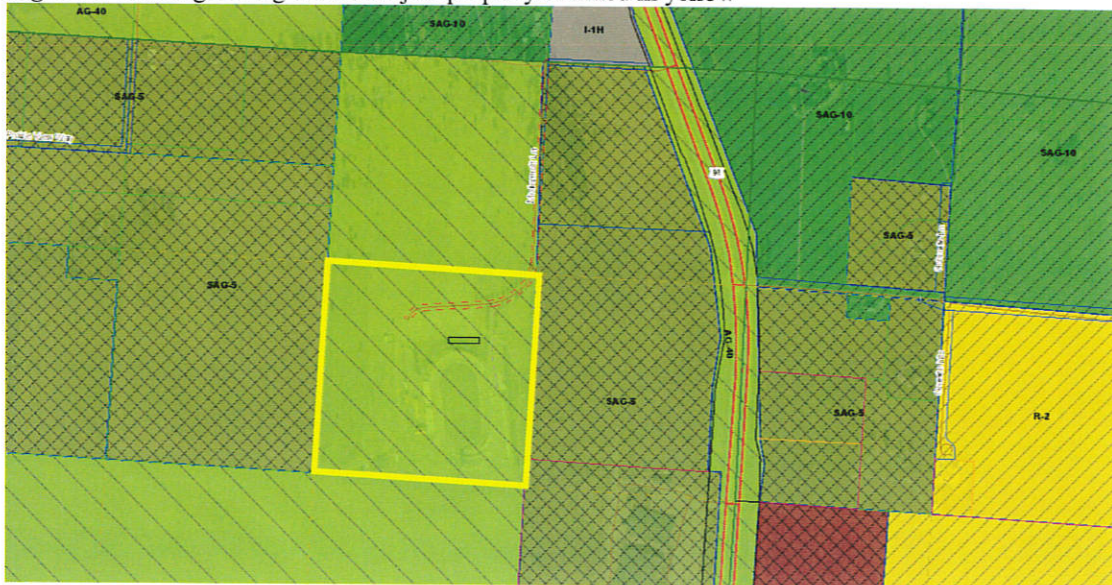
Figure 2: Current land use on the subject property shown in yellow



ii. Current Zoning

Located within the Highway 93 North Zoning District, the subject property is currently zoned AG-40 *Agriculture* but is currently seeking a zoning map amendment to change the zoning to R-1 *Suburban Residential*.

Figure 3: Existing zoning on the subject property outlined in yellow



iii. Proposed Land Use:

The proposed PUD and associated subdivision would create 57 single-family residential lots on the subject property, with 2.31 acres set aside as accessible, open space, with .960 acres of the open space dedicated as parkland. The new lots would be situated along the proposed internal subdivision road. All lots would be served by a public water supply system served by two new wells and individual septic systems with a common drain field. The subdivision will have only one primary access via McDermott Road. All roads would be designed and constructed to meet applicable County road standards.

UPDATE APRIL 21, 2017:

The applicants have updated their application and increased the open space and park space within the proposed subdivision. The new plan still creates 57 single-family residential lots but increases the total open space to 7.3 acres and 4.1 of that open space is proposed to be dedicated park space. All lots would be served by a public water supply system served by two new wells and individual septic systems with a common drain field. The subdivision will have only one primary access via McDermott Road. All roads would be designed and constructed to meet applicable County road standards.

F. Area Characteristics

i. Description of Area Surrounding Proposed Subdivision/Planned Unit Development

Located just a short distance west of US Highway 93, the proposal site is situated on an elevated bench west of Highway 93 near the Majestic Valley Arena. The terrain in this area is generally flat and gently rolling with agriculture to the west, a conservation easement to the south, commercial properties to the east and suburban agriculture to the north.

ii. Zoning

As shown in Figure 3 above, the subject property is currently located within AG-40 *Agricultural* zoning district but is currently seeking a zoning map amendment to change the zoning to R-1, *Suburban Residential*. The subject property is surrounded by agricultural and suburban agricultural zoning use designations. The proposed R-1 PUD area is bordered to the west and east by areas of SAG-5 *Suburban Agricultural* and to the north and south by AG-40 *Agricultural* zoning use districts.

iii. Land Uses

As shown in Figures 1 and 2 above, the subject property is situated in an area which is developed with agricultural, commercial and relatively low density residential uses. Limited instances of light industrial and commercial uses occur within an approximate one mile radius from the site. The predominant character of the area surrounding the subject property is agricultural and estate-type rural residential, with lot sizes ranging from 1.5 to 119 acres on the west and south sides of the subject property. The subject property and adjacent parcels tend to be open fields and pastures. The mix of agricultural, residential, and commercial land uses is consistent with the established mixed zoning present in the general area.

G. Utilities and Services

i. Water

Public water system proposed

ii. Wastewater

Public wastewater system proposed

iii. Electricity

Flathead Electric Cooperative

iv. Natural Gas

Northwestern Energy

v. Solid Waste

Contract haul – Evergreen Disposal

vi. Telephone Service

CenturyTel

vii. Schools District(s)

Whitefish School District 44 (K-12)

viii. Fire Districts

West Valley Fire District

ix. Police

Flathead County Sheriff's Department

III. COMMENTS RECEIVED

A. Agency Referrals

Agency referrals for comments on the proposed PUD were sent to pertinent agencies on September 8, 2016. Agency referrals regarding the associated subdivision were sent out on November 16, 2016. Because the comments received regarding the subdivision are also relevant to the PUD, they will also be included in this section. As of the date of completion of this staff report, the following comments have been received:

- Jim Chilton, Flathead County Solid Waste
 - PUD Comment: "The District views no negative impact with solid waste issues at this time."
 - Subdivision Comment: "The District requests that all new subdivisions use a private hauler to bring solid waste to the landfill. The outlying green box sites should not be used as the primary method of solid waste disposal. Evergreen Disposal is the (PSC) Public Service Commission licensed hauler in this area.... After reviewing the project summary, I believe that solid waste management is being followed properly."
- Dave Prunty, Public Works/Flathead County Road Department
 - PUD Comment: "Our files show that McDermott Lane was improved in 1996 by Raceway Park in the area through the wetlands immediately off Highway 93. Paving may have come after this time. The improvements were very beneficial and have withstood the current traffic loading. With the planned PUD and the anticipated increase in traffic loading we don't know if improvements will continue to function at their current level. An analysis from a geotechnical engineer may be beneficial to assess the improvements structural section."
 - Subdivision Comment: "We didn't see that a second ingress/egress location was planned for the subdivision. Also, we understand that the "emergency" access is located in the northeast corner of the subdivision where McDermott Lane enters the property. The provided plat labels this as an existing 60 ft private road and utility easement. In the event of an emergency, access to the easement could be difficult if McDermott is

not able to be utilized.

The other issue we see in the level of service for the turning motion on McDermott Lane east bound. Both current and developed scenarios are at level C. Assuming there will be more growth in the area it appears an undesirable level of service at this intersection is possible as the growth continues north of the City of Kalispell.”

- Wendee Jacobs, Flathead City-County Health Department
 - Subdivision Comment: “The proposed 57 lot subdivision would require review of the lots under the Sanitation in Subdivisions Act (Title 76, Chapter 4, Part 1). The application proposes a new public water supply and new public wastewater collection and treatment system. The proposed development is approximately 3000 feet from the nearest component of the Kalispell municipal sewer system located on Church Drive. Under review, if the proposed development is within 500 feet of any of the public system’s components, connection to the public system is required. Development of Kalispell is expanding north along Highway 93. Although connection and service is not required under review, the department recommends connection to city services.”

James Freyholtz, Montana Department of Transportation

- PUD Comment: “The proposal would change the existing Montana Raceway Park to a 59 lot residential subdivision. The proposal accesses US 93 via McDermott Lane which is a county road. I do not have any comments regarding this proposal.”

- Marc Pitman, Montana DNRC Water Resource Division
 - Subdivision Comment:

Water Rights: The Engineer’s Report for the PWS seems to be a cut and paste from an RV Park near Eureka in Lincoln County. The water use requirements only address domestic use for the 57 single family home lots. Using DEQ standards of 100 GPD/capita with an average of 2.5 capita per household, the annual use is estimated at 15.96 AF/year. Typically, lawn and garden irrigation demands exceed domestic demands in a subdivision. I cannot find any reference to lawn and garden irrigation in the report. Will there be lawn and garden irrigation from the PWS or is a second system from the existing non PWS well going to be used for lawn and garden irrigation?

Even without lawn and garden irrigation the estimated domestic use annual volume of 15.96 AF/year exceeds the water right permit exceptions under MCA 85-2-306 3 (iii). Therefore, a water right permit is required and will need to be issued prior to approval of a COSA by DEQ. The Applicants should contact DNRC as soon as possible about applying for a water right permit.

The Engineer’s report mentions an existing multi-user well, GWIC Id# 125944. The water right association with this well, 76LJ 77490-00, is filed on a commercial use for up to 1.97 AF/year at a pumping rate of 45.0 GPM. If this well is going to be used for irrigation of utility and park lots then most likely a water right permit will need to be issued on this well, prior to approval of a COSA by DEQ. Again there seems to be some confusion resulting from a cut and paste error in the report. Are the “utility and park lots” referred to in the report actually single family home lots? Again, are there going to be two systems one for a PWS and another for lawn and garden irrigation?

The pump test on the existing well mentions drawdown in the well when it was pumped

for 5 days at 138 GPM. Was draw down measured in a separate monitoring well as required for an aquifer test needed for a water right permit application?

Floodplain: The proposed subdivision is located outside any mapped regulatory floodplains.”

- Jessie Coltrane, Wildlife Biologist, Montana FWP
 - Subdivision Comment: “Wildlife Habitat Values: The agricultural fields located within the vicinity and adjacent to the proposed subdivision area provide important spring and fall habitat for migratory waterfowl, including Canada Geese, northern pintails, and mallards, and sandhill cranes. Development of these areas into high density housing will undoubtedly displace migrating waterfowl. This habitat also supports white-tailed deer and other small mammals.

DEVELOPMENT CONSIDERATIONS

Agricultural Area

To mitigate impacts of housing developments on spring migratory waterfowl, including sandhill cranes, we typically recommend clustering development to maintain tracts of undeveloped lands. Establishing smaller residential lots with larger tracts of undeveloped land will help maintain important wildlife habitat; however, since this property is currently zoned AG-40, residential development should be minimal and large tracts of undeveloped land would be dominant. This is preferred to a high density clustered subdivision. The current proposed development will only preserve 1.106 acres of green space that has essentially no wildlife value. As proposed, essentially the entire 40 acres will be occupied by residential housing, eliminating any value to wildlife.

Ungulate Winter Range

The Raceway Park Subdivision Property falls within white-tailed deer winter range. Providing linkages between habitat patches for ungulate winter range are critical to maintain white-tailed deer populations. In particular, maintenance of ungulate habitat within the riparian corridor is paramount to sustaining deer winter range.

FWP is often questioned as to whether the subdivision of winter range really has any effect on ungulate wildlife populations. Winter range is not as limited as wetlands, for instance, or as easy to delineate as a riparian area. Winter ranges are the most limiting habitat type for ungulates and serve the winter needs for animals migrating from higher elevation summer ranges, as well as providing for the yearlong habitat needs of lower density of resident animals. The impact of any single subdivision proposal is typically small due to the previously mentioned fact that winter range habitat is more widespread. However, the cumulative effects of subdivisions over time or the effects of larger or extensive anticipated future subdivisions in the area can have significant impacts on wintering ungulates if consideration for winter range is not incorporated into the planning. In short, alterations in winter range in quality or availability will result in significantly lower ungulate populations.

We encourage Flathead County Planning and Zoning to deny this zone change and subdivision request to maintain the character of the area and to preserve the land value to agriculture and wildlife. If this zone change is approved, we encourage the

landowner to work with FWP fish and wildlife biologists in advance of defining actual future lots so that predevelopment activities can occur with minimum impacts to fish and wildlife. We also believe that FWP can help the developer reduce future fish wildlife impacts through subdivision design and development of covenants that allow development, but with the least impacts to fish, wildlife, water quality, and other resource values.”

- Julie Weber, Bonneville Power Administration
 - PUD Comment: In reviewing the proposed plan, it appears this request will not affect any BPA facilities located within this area. BPA does not have any objections to the approval of this request at this time.

B. Public Notice

Adjacent property notification regarding the proposed PUD was mailed to property owners within 150 feet of the subject properties on December 23, 2016 and again on April 21, 2017. Legal notice of the Planning Board public hearing on this application was published in the December 25, 2016 and April 23, 2017 edition of the Daily Interlake.

Following the Planning Board hearing on May 10th, public notice of the proposed PUD will be physically posted on the subject property and within the zoning district according to statutory requirements found in Section 76-2-205 M.C.A. Notice will be published once a week for two weeks prior to the Board of Commissioners public hearing, date to be determined in the legal section of the Daily Interlake. All methods of public notice will include information on the date, time and location of the public hearing before the Board of Commissioners on the requested zoning map amendment.

As of the date of the completion of this staff report, no written public comments had been received regarding the proposal. Written public comment will be received until 5:00 PM on May 10, 2017, and will be summarized verbally and entered into the public record during the Planning Board hearing that evening. Anyone wishing to provide public comment may do so in person at the Planning Board hearing on May 10, 2017 and the Board of Commissioners public hearing date to be determined.

IV. EVALUATION OF PUD OVERLAY REQUEST

A Planned Unit Development (PUD) is a zoning overlay meant “*to encourage the more efficient use of land and public services by providing a classification which may provide flexibility of architectural design and mixing of land uses while preserving and enhancing the integrity and environmental values of an area*” (Section 3.31.010 FCZR). The underlying zoning in place at the time of a PUD application establishes the uses and density allowable in the PUD area unless otherwise specified by the approved PUD plan.

The applicant has requested a residential PUD overlay that would apply to the entire subject property proposed for the PUD, and which is also undergoing subdivision review concurrently with this proposal (refer to FPP-16-07). The applicant has also applied for a zoning map amendment that would change the zoning use on the property from AG-40 *Agriculture* to R-1 *Suburban Residential*. The proposed PUD overlay would allow the developer to deviate from the standard minimum lot area requirement of the underlying ‘R-1’ zoning by using the permissible density provision for a R-1 Residential PUD as outlined in Section 3.31.030(4)(A) of the Flathead County Zoning Regulations (FCZR) which allows up to 2 dwelling units per

acre within a R-1 Residential PUD. The proposed development density would be 1 dwelling unit per .71 acres, all lots are proposed to be served by individual septic systems with a shared drain field, and the water system would be public and served by two wells located near the McDermott Road entrance of the subdivision. The PUD overlay proposed would allow a reduced minimum lot size, enabling the 57 residential lots and leaving .96 acres in designated 'common area'.

The review of a Planned Unit Development (PUD) has a specific review criteria found in Section 3.31.020 (2) of the Flathead County Zoning Regulations. These criteria are used to evaluate the appropriateness of the plan itself. PUDs are also required to meet certain performance standards identified in Section 3.31.030 regarding their location, land area requirements and use regulations. The following is an evaluation of the proposed PUD using the criteria identified:

A. The extent to which the plan departs from zoning and subdivision regulations otherwise applicable to the subject property, including, but not limited to, density, bulk and use, and the reasons why such departures are or are not deemed to be in the public interest:

The proposed Montana Raceway PUD departs from the future underlying zoning designation of R-1 *Suburban Residential* by modifying permitted and conditional uses and bulk and dimensional requirements, specifically changes to minimum lot size, minimum lot width, and cul-de-sac lot width. The PUD overlay would enable a total of 57 single-family lots to be situated along the internal subdivision roads for a total developed area (roads and lots combined) of approximately 40.6 acres. The developer has decided to do a combination of cash in lieu of parkland and some park land (.96 acres), which would be set aside as permanent parkland, owned and maintained by the Homeowner's Association. Approximately 12.5% of the subject property will be open space with a combination of utility lots and parkland. There is additional open space intended to accommodate onsite wastewater treatment while preserving open space. Although almost 12.5% (approximately 5 acres) of the subject property will be designated open space, almost half of that will be inaccessible to homeowners within the subdivision.

Table 1: General Characteristics for Montana Raceway R-1 PUD

Underlying Zoning (pending zoning map amendment)	R-1 <i>Suburban Residential</i>
Standard R-1 Minimum Lot Size	1 acre
Proposed R-1 PUD Minimum Lot Size	13,000 square feet (~.30 acres)
Standard R-1 Minimum Lot Width	150 feet
Proposed R-1 PUD Minimum Lot Width	50 feet
Standard R-1 Cul-de-sacs	60 feet
Proposed R-1 PUD Cul-de-sacs	35 feet

Minimum Lot Area/Density

The plan area encompasses 40.6 acres, and will be zoned entirely R-1 *Suburban Residential*. Based upon the R-1 zoning designation, a total of 40 lots could be created outright, in accordance with the 1 acre lot size minimum [Section 3.09.040(1) FCZR]. Section 3.31.030(4)(A) of the zoning regulations identify the maximum permissible

residential density for a R-1 PUD as 2 dwelling units per acre; using these calculations, a total of 81 dwelling units would be permissible. The applicant has requested a total of 57 lots as part of the proposed subdivision/PUD. Seventeen additional dwelling units have been proposed beyond what is permitted by the standard R-1 zoning. Where the minimum lot area of the underlying R-1 zoning is 1 acre, single family dwelling lots within Montana Raceway PUD would range from 0.34 to .785 acres in size. There would little or no change in the lots at time of final PUD approval from the depicted configuration and sizes shown on the Montana Raceway preliminary plat.

UPDATE APRIL 21, 2017:

The applicants have updated the PUD plan at the request of the Planning Board to address issues regarding open space. The updated PUD plan indicates they will no longer do cash-in-lieu as they have increased the total open space to 7.3 acres with 4.1 acres as dedicated parkland. The density, a concern voiced by the planning board, has not been changed. With the increase in open space and parkland, most lots decreased in size and would now range between 0.377 to 0.698 acres in size. There would little or no change in the lots at time of final PUD approval from the depicted configuration and sizes shown on the Montana Raceway preliminary plat.

Finding #1 – The proposed minimum lot area and overall density appears to generally be in the public interest because the proposed development would have a density consistent with what is allowed under the PUD allowances for an R-1 Residential PUD with approximately 7.3 acres open space and 4.1 acres of the open space as dedicated parkland.

Minimum Lot Width and Cul-de-sac Width

- While the minimum lot width of the R-1 zoning is 150 feet, the submitted draft PUD Plan indicates single-family dwelling lots within the Montana Raceway R-1 PUD would have a 50-foot minimum lot width. This appears to be in the public interest because with the decreased lot size, meeting the underlying R-1 minimum lot width would be difficult and create odd shaped lots. The decrease in lot width is proportional to the decrease in lot size.
- The draft PUD plan indicates a proposed decrease in cul-de-sac lot width from 60 feet to 35 feet. This may not be in the public interest because the potential for problems in the future. Triangular shaped lots may create minimal usable space on the property preventing the landowners from building zoning compliant structures and accessory structures.

Finding #2 – The minimum lot width and cul-de-sac lot width appear to be in the public interest in terms of decreased minimum lot width because it prevents odd shaped lots but does not appear to be in the public interest in terms of decreased cul-de-sac width a because it creates odd, triangle shaped lots that may create zoning issues.

Permitted and Conditional Uses

- The preliminary PUD plan indicates the following permitted uses will replace the underlying permitted uses and no conditional uses will be allowed. This limits the uses within the PUD overlay area and keeps the subdivision almost exclusively residential. The preliminary plan indicates this will benefit the community because the restriction

of permitted uses will facilitate the goals of development. The overall goal of development is to ‘create an attractive residential neighborhood with crafted homes that meet the market demands for the area.’ The omitted permitted uses for the of Section 3.09 include (1) agriculture, (2) class A manufactured homes (double wide), (3) home day cares, (5) accessory dwelling units, (6) guest houses, (9) livestock, (10) nurseries, landscaping materials, (12) produce stands, (13) public transportation shelter station, (14) public utility service installation, and (15) private stables for the Montana Raceway R-1 PUD.

Permitted Uses – Montana Raceway R-1 PUD

1. Dwelling, Single Family
2. Home occupation
3. Homeowners Park and beaches
4. Park and publicly owned recreational facility
5. Community center building operated by a non-profit agency
6. Cellular antenna & monopole
7. Water and sewage treatment plant
8. Water Storage Facility

Finding #3 – The proposed permitted uses appear to be in the public interest because the Montana Raceway R-1 PUD plan area is proposed as a private residential development and the types of uses included as permitted uses are limited to those which would be practical for residential lot owners.

B. The nature and extent of the common open space in the planned development project, the reliability of the proposals for maintenance and conservation of the common open space and the adequacy or inadequacy of the amount and function of the open space in terms of the land use, densities and dwelling types proposed in the plan:

As proposed, roughly 12.5% of the subject property would be permanently set aside in open space; that open space would be owned and maintained by the Homeowner’s Association, however not all of the open space will be accessible to residents who live in the subdivision. Of the approximate 5 acres of open space, almost half (2.3 acres) will be an inaccessible utility lot, 1.3 acres will be an accessible utility lot (septic drain field), and only .96 acres are planned as a maintained park. Planned unit developments do not require a specific amount of open space to be set aside for increased development density (such as that which is required for residential cluster developments in Section 5.09 FCZR). Section 3.31.030(4)(A) FCZR would allow a maximum development density of 80 units for a R-1 PUD, and the applicant has requested 57 dwelling units as part of the proposed subdivision/PUD. The exact parkland/open space acreage required through subdivision review will be discussed in the associated Montana Raceway Preliminary Plat staff report.

The mechanism for maintaining and conserving the open space proposed as part of this development plan is the Montana Raceway Homeowner’s Association, pursuant to the Codes, Conditions, Restrictions and Reservations to be adopted as part of the PUD. Section IV – *Rights and Obligations of the Association*, 4.1 – *Common Area* found on page 8 of the Draft CC&Rs for Montana Raceway states “The Association, subject to the rights of the owners set forth in this declaration, shall manage and control the common area and all improvements therein (including, without limitation, buildings, equipment, and common

landscaped areas), and shall keep it in good, clean, attractive, and sanitary condition, order, and repair consistent with this declaration.” *Section V – Maintenance, 5.1 – Association’s Responsibility* found on page nine of the Draft CC&Rs for Montana Raceway, address maintenance of the common areas. Monetary assessments to be paid by each homeowner for the care and maintenance of Common areas within the proposed development are addressed under Section III – Assessments found on page 5 of the Draft CC&Rs for Montana Raceway.

UPDATE APRIL 21, 2017:

The applicants have updated the application to offer open space and subsequently more dedicated parkland. . The updated PUD plan indicates they will no longer do cash-in-lieu as they have increased the total open space to 7.3 acres with 4.1 acres as dedicated parkland.

Finding #4 - Open space associated with the proposed PUD appears to be adequate in both amount and function because approximately 15% of the 40.6-acre site would be preserved as open space, with 4.1 acres of the open space as dedicated parkland.

C. The manner in which said plan does or does not make adequate provision for public services, provide adequate control over vehicular traffic and further amenities of light or air, recreation or visual enjoyment.

The subject property is located within the West Valley Fire District and would be served by the West Valley Fire District and the Flathead County Sheriff’s Department in the event of an emergency. A preliminary plat application for the associated Montana Raceway Subdivision accompanies the proposed PUD application and provides details on how the plan and subdivision will address the matter of public services and facilities, traffic and recreation components described herein. The proposal’s impact on public services and transportation/access matters will be considered in relation to applicable regulations and the statutory review criteria in the development’s subdivision review.

Dave Prunty of Flathead County Road and Bridge Department commented on the potential impact to traffic concerns: “We didn’t see that a second ingress/egress location was planned for the subdivision. Also, we understand that the “emergency” access is located in the northeast corner of the subdivision where McDermott Lane enters the property. The provided plat labels this as an existing 60 ft private road and utility easement. In the event of an emergency, access to the easement could be difficult if McDermott is not able to be utilized. The other issue we see in the level of service for the turning motion on McDermott Lane east bound. Both current and developed scenarios are at level C. Assuming there will be more growth in the area it appears an undesirable level of service at this intersection is possible as the growth continues north of the City of Kalispell.”

The Planning Office views the ‘emergency access’ in the same way the Road and Bridge Department in that it does not constitute a true emergency access because it connects to McDermott Lane before the entrance of the proposed subdivision/PUD. Dave Prunty also suggests that an analysis from a geotechnical engineer may be beneficial to assess the improvements structural section of McDermott Lane where it passes through mapped floodplain as it approaches Highway 93.

The Montana Raceway PUD and Subdivision would be served by a proposed public water supply system and proposed public wastewater treatment system where each lot would have

its own septic tank and the subdivision would share a common drain field. The subdivision and the internal roads will be designed and constructed to meet applicable County road standards. The submitted preliminary plat indicates an 8-inch water main would provide domestic and fire-flow water supply and the sheet indicates proposed locations for approximately 9 fire hydrants spaced at 400-500 foot intervals.

Lots proposed within the PUD and subdivision would have direct driveway access onto the internal subdivision road that will be constructed and paved to County Road and Bridge standards. Lots created through subdivision review as part of the PUD would continue to abide by the underlying zoning in place except as modified by the PUD plan, ensuring the adequate provision of light and air and maintaining public health and safety for the subject property and surrounding area.

UPDATE APRIL 21, 2017:

The applicants have updated the application to address access. While the application still only provides one access to the planned unit development, the access will be widened with a divided median.

Figure 4: Updated PUD site plan



Finding #5 – Montana Raceway subdivision and associated PUD makes adequate provision for public services and amenities of light, air and recreational enjoyment because the

properties are located within the jurisdiction of local fire and emergency service providers and will be required to adhere to reasonable requests made by public service providers to ensure public health and safety. There are significant and abundant recreation facilities in the Flathead Valley. The underlying zoning and PUD standards will continue to regulate bulk and dimensional requirements of the development.

Finding #6 – Montana Raceway subdivision and associated PUD does not make adequate provision for vehicular traffic because there is only one primary access and no secondary access to the proposed subdivision and could potentially not be adequate in the event of an emergency or vehicular accident at the entrance to the subdivision.

D. The relationship, beneficial or adverse, of the planned development project upon the neighborhood in which it is proposed to be established.

The PUD is proposed on property which has been developed for a commercial racetrack, and the PUD area is anticipated to cover the entirety of the subdivision. The proposed development would likely have a positive impact on the neighborhood because the property currently operates as a professional racetrack, and has been a source of contention in the neighborhood for many years. With the creation of the subdivision/PUD, the racetrack will be removed. There may be some visual impact of the subdivision but the character of the proposed subdivision/PUD is similar to other subdivisions in the near vicinity.

- The plan to remove the commercial infrastructure from the subject property is not anticipated to have adverse impacts to the agricultural aspects of the neighborhood because the irrigation serves only the subject property and is not part of a shared irrigation system.
- The development would minimize impacts to the natural environment by using public water services and a public wastewater treatment system.
- It is anticipated that applicability of the PUD plan and Flathead County Zoning Regulations (FCZR) about things such as lighting, signage, landscaping, and bulk and dimensional requirements would minimize visual impacts of the planned development upon the surrounding neighborhood.

Finding #7 - The proposed Montana Raceway Subdivision/PUD would likely have a positive impact on the neighborhood because the property currently operates as a professional racetrack and has been a source of contention in the neighborhood for many years and with the creation of the subdivision/PUD, the racetrack will be removed.

E. In the case of a plan that proposes development over a period of years, the sufficiency of the terms and conditions proposed to protect and maintain the integrity of the plan which finding shall be made only after consultation with the County Attorney.

The proposed Montana Raceway Subdivision accompanying the PUD application would be developed over multiple phases necessary to fully implement the PUD plan. However, the phasing plan applies specifically to the proposed subdivision and not directly to the proposed PUD, as the final PUD plan will be required to undergo review and receive approval prior to an application for a Final Plat of Phase 1. The proposed Montana Raceway Subdivision accompanying the PUD application would be developed over multiple phases necessary to fully implement the PUD. The County Attorney has reviewed the terms and conditions of the proposed PUD plan, phasing plan, and associated draft Covenants, Codes

& Restrictions of Raceway Park (CC&R's) because the plan provides the basis for the Raceway Park Subdivision, and development of the subdivision and its associated improvements would occur over a period of years.

The County Attorney would express caution regarding the use of phasing in subdivision applications. The applicant should submit separate subdivision applications for each phase to allow the public meaningful opportunity to comment. With that in mind, the final PUD plan for the entire development area should be reviewed and approved prior to final plat submittal for Phase 1 of the proposed subdivision. No other concerns regarding the sufficiency of the proposed PUD plan and CC&R's have been identified

Finding #8 – Following review and consultation with the Flathead County Attorney, the proposed PUD plan, phasing plan, and associated draft Covenants, Codes & Restrictions of Raceway Park would be acceptable because the PUD final plan would undergo review and receive approval as a single plan applicable to the subject property in its entirety prior to final platting of Phase 1 of the subdivision; because the phased development of the subdivision will occur in accordance with the timeline and requirements set forth in the Flathead County Subdivision Regulations.

F. Conformity with all applicable provisions of this chapter.

A proposed PUD must be reviewed for conformance and consistency with the provisions of Section 3.31.030 of the Flathead County Zoning Regulations regarding "Standards for Planned Unit Development District". The following criteria are applicable to the proposal:

1. **Location of PUD** - The proposed subdivision/PUD is located near the City of Kalispell within the Riverdale Neighborhood Plan Area. Public and private facilities including roads, water and septic systems, a storm drainage system, and dry utilities will be available by the time development reaches the stage that it will be required. Lots within the subdivision will be served by a public wastewater system, a public water district will be created and served by two wells within the subdivision and service all 57 dwelling units. The subject property is located within the West Valley Fire District, the Whitefish Public School District and will be served by the Flathead County Sheriff's Department.
2. **Land Area Requirement** - The proposed PUD encompasses one tract of land under single ownership totaling 40.6 acres, which is well in excess of the 2 acre minimum land area required to make an application to the Planning and Zoning Office.
3. **Establishment of PUD Districts** - The proposed PUD meets the establishment requirements governing the type of PUD that may be reviewed and approved by the Commissioners. The application submitted is for a 'Residential PUD', and the land involved in the proposed PUD and subdivision to follow are currently going through the zoning map amendment process to transition from AG-40 *Agriculture* to R-1 *Suburban Residential* allowing for a Residential PUD district.
4. **Use Regulations** - The submitted preliminary PUD application proposes certain modifications to the R-1 *Suburban Residential* zoning with regard to bulk and dimensional requirements as discussed above in Section IV(A) of this report. The applicant has requested decreased minimum lot size, decreased minimum lot width, decreased Cul-de-sac width, fewer permitted uses, and the elimination of any

conditional uses allowed in R-1 zoning.

- 5. PUD Preliminary Plan-** The PUD Preliminary Plan application contains the elements required in this section of the regulations to allow for the review of the proposed PUD. Open space will accommodate certain non-residential functions such as wastewater infrastructure and limited recreational amenities. Regarding compliance with all of the provisions of this section, it is important to note that the PUD also involves the subdivision of the land overlaid by the PUD from the current tract of record. Requirements of this section regarding CC&R's, maintenance of roads and other infrastructure, and weed management would be met through conformance of the preliminary plat, concurrently under review, with the Flathead County Subdivision Regulations and the Montana Subdivision and Platting Act [Section 3.31.030(5)(L).

Finding #9- The proposed Montana Raceway PUD conforms with the provisions of the Flathead County Zoning Regulations by being located within an area of the County where adequate public and private services and facilities are or will be available to serve the development; being larger than two acres; meeting the establishment criteria for a residential PUD district; conforming with the applicable use regulations for a R-1 residential PUD; containing all applicable elements necessary for review, and; by complying with all applicable regulations as a result of the associated subdivision review.

V. SUMMARY OF FINDINGS FOR PROPOSED PUD

Finding #1 – The proposed minimum lot area and overall density appears to generally be in the public interest because the proposed development would have a density consistent with what is allowed under the PUD allowances for an R-1 Residential PUD with approximately 7.3 acres will be open space and 4.1 acres of the open space as dedicated parkland.

Finding #2 – The minimum lot width and cul-de-sac lot width appear to be in the public interest in terms of decreased minimum lot width because it prevents odd shaped lots but does not appear to be in the public interest in terms of decreased Cul-de-sac width a because it creates odd, triangle shaped lots that may create zoning issues.

Finding #3 – The proposed permitted uses appear to be in the public interest because the Montana Raceway R-1 PUD plan area is proposed as a private residential development and the types of uses included as permitted uses are limited to those which would be practical for residential lot owners.

Finding #4 - Open space associated with the proposed PUD appears to be adequate in both amount and function because approximately 15% of the 40.6 acre site would be preserved as open space, with 4.1 acres of the open space as dedicated parkland.

Finding #5 – Montana Raceway subdivision and associated PUD makes adequate provision for public services and amenities of light, air and recreational enjoyment because the properties are located within the jurisdiction of local fire and emergency service providers and will be required to adhere to reasonable requests made by public service providers to ensure public health and safety. There are significant and abundant recreation facilities in the Flathead Valley. The underlying zoning and PUD standards will continue to regulate bulk and dimensional requirements of the development.

Finding #6 – Montana Raceway subdivision and associated PUD does not make adequate provision for vehicular traffic because there is only one primary access and no secondary access to the proposed subdivision and could potentially not be adequate in the event of an emergency or vehicular accident at the entrance to the subdivision.

Finding #7 - The proposed Montana Raceway Subdivision/PUD would likely have a positive impact on the neighborhood because the property currently operates as a professional racetrack and has been a source of contention in the neighborhood for many years and with the creation of the subdivision/PUD, the racetrack will be removed.

Finding #8 – Following review and consultation with the Flathead County Attorney, the proposed PUD plan, phasing plan, and associated draft Covenants, Codes & Restrictions of Raceway Park would be acceptable because the PUD final plan would undergo review and receive approval as a single plan applicable to the subject property in its entirety prior to final platting of Phase 1 of the subdivision; because the phased development of the subdivision will occur in accordance with the timeline and requirements set forth in the Flathead County Subdivision Regulations.

Finding #9– The proposed Montana Raceway PUD conforms with the provisions of the Flathead County Zoning Regulations by being located within an area of the County where adequate public and private services and facilities are or will be available to serve the development; being larger than two acres; meeting the establishment criteria for a residential PUD district; conforming with the applicable use regulations for a R-1 residential PUD; containing all applicable elements necessary for review, and; by complying with all applicable regulations as a result of the associated subdivision review.

VI. CONCLUSION

Per Section 3.31.020 of the Flathead County Zoning Regulations (FCZR), a review and evaluation of the proposed planned unit development has been completed by the staff of the Planning Board in accordance with the process and criteria for review found in Section 3.31.020(2) FCZR. Said review has found the proposal complies with most but not all of the established review criteria, based upon the nine Findings of Fact cited above and with the imposition of conditions of approval.

VII. CONDITIONS OF PUD FINAL PLAN

Should the Montana Raceway Preliminary PUD Plan be approved based upon analysis completed above and the Findings of Fact presented, the applicant shall submit a Final PUD Plan in accordance with Sections 3.31.030(6) and 3.31.020(3) of the Flathead County Zoning Regulations, and pursuant to the conditions below:

1. The Montana Raceway Planned Unit Development (PUD) has been reviewed and approved as a zoning overlay to the underlying R-1 *Suburban Residential* zoning designation, to allow a decreased minimum lot size to allow for the creation of fifty-seven (57) residential lots, decreased minimum lot width, decreased cul-de-sac lot width, fewer permitted uses, and the elimination of any conditional uses. Any changes to the PUD plan as reviewed will be required to undergo review by the Flathead County Planning Office and Flathead County Planning Board, and receive approval from the Flathead County Commissioners.
2. This preliminary PUD plan shall only be valid if and when the map amendment from AG-40 *Agriculture* to R-1 *Suburban Residential* becomes final.
3. The permitted and conditional uses as well as bulk and dimensional requirements of the

proposed Montana Raceway R-1 PUD overlay, as modified by these conditions, should be clearly identified, incorporated and/or referenced within future documents pertaining to the subject property and the subsequent subdivision to inform the public and future landowners of the unique zoning classification applicable to the property as a result of this plan review.

4. The following statement shall be placed on the face of the final plan:
 - a. *Permitted uses, Conditional uses, and Bulk and dimensional requirements of the approved Montana Raceway final PUD Plan shall apply to the development and use of the entire property.*
5. As required by Section 3.31.030(6)(B), the following statement shall be placed on the face of the final plan:
 - b. *I, _____, owner and developer of the property set forth above, do hereby agree that I will develop the above property as a Planned Unit Development in accordance to the submitted PUD Plan.*

Signature Property Owner/Developer

Approved this _____ day of _____, 20 __, by the Flathead County Commissioners.

6. The open space shall be maintained by the Homeowner's Association in conformance with the applicable section(s) of the Draft Declaration of Covenants, Codes, and Restrictions of Montana Raceway reviewed herein. The open space shall be designated accordingly on the face of the final plan and on the face of the final plat(s) for Montana Raceway Subdivision.
7. The applicant shall submit the PUD Final Plan application pursuant to Section 3.31.030(6) of the Flathead County Zoning Regulations, meeting all applicable requirements therein.
8. The Montana Raceway Final Planned Unit Development Plan shall receive approval from the Flathead County Board of Commissioners prior to submitting an application for final plat review of Phase I of the proposed Montana Raceway Subdivision.

Planner: kn